

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**The Recovery Project
Petitioner**

v

File No. 21-1901

**Member Select Insurance Company
Respondent**

**Issued and entered
this 3rd day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On December 22, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Member Select Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of physical therapy bills pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued a bill denial to the Petitioner on October 20, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 14, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on January 6, 2022, and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 14, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 24, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for four sessions of physical therapy provided to an individual injured in an automobile accident in 2014. The injured person suffered a spinal cord injury and remains paralyzed. In early 2021, the injured person developed an infection and was hospitalized. She returned to the Petitioner's clinic on June 3, 2021. At issue in this appeal are physical therapy sessions provided on June 3, 10, 17 and 24, 2021.

With its appeal request, the Petitioner submitted the records of the therapy sessions which describe her medical history and the changes in her physical and mental status after her hospitalization.

In its reply, the Respondent stated that the submitted medical records do not support the Petitioner's request. The Respondent also stated that the physical therapy treatment quantity exceeds the American College of Occupational and Environmental Medicine (ACOEM) and Official Disability Guidelines (ODG) recommendations with 303 physical therapy treatment sessions provided since the 2014 motor vehicle injury.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding overutilization.

The Director assigned an IRO to review the case file. The IRO reviewer is a licensed physical therapist in active practice. The IRO reviewer concluded, based on the submitted documentation, that the physical therapy treatments provided to the injured person on the dates in question were medically necessary in accordance with medically accepted standards as defined by R 500.61(i) and were not overutilized in frequency and duration in accordance with medically accepted standards as defined by R 500.61(i). The IRO reviewer relied on the Milliman Care Guidelines for the recommendation and wrote:

According to the MAC R 500.61(i), the "most appropriate practice guidelines for the treatment, training, products, services and accommodations provided to an injured person ... may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations."

The Milliman Care Guidelines (MCG) state that spine soft tissue dysfunction rehabilitation is indicated.

* * *

The injured person had regressed status due to hospital stay. The extent of injuries, comorbidities, and expected very slow progress with these injuries would

warrant this number of sessions since 2014. There was reasonable expectation that resuming therapy services following her hospital stay would result in continued improvement that would require the skills of a physical therapy to manage. The physical therapy services were medically necessary and appropriate given condition and comorbidities. As such, the request for physical therapy treatments dates of service June 3, 10, 17, and 24, 2021 were medically necessary.

The IRO reviewer recommended that the Director reverse the Respondent's determination dated October 20, 2021.

IV. ORDER

The Director reverses the Respondent's determination dated October 20, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford